

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 280

By Senators Tarr and Taylor

[Introduced January 18, 2023; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as
2 amended; to amend and reenact §3-4A-11a of said code; to amend and reenact §3-5-4 of
3 said code; to amend said code by adding thereto five new sections, designated §3-5-6a,
4 §3-5-6b, §3-5-6c, §3-5-6d, and §3-5-6e; to amend and reenact §3-5-7, §3-5-13, and §3-5-
5 13a of said code; to amend and reenact §3-10-3 of said code; to amend and reenact §3-
6 12-3, §3-12-6, §3-12-10, §3-12-11, §3-12-12, and §3-12-14 of said code; to amend and
7 reenact §50-1-1 and §50-1-6 of said code; to amend and reenact §51-1-1 of said code; to
8 amend and reenact §51-2A-5 of said code; and to amend and reenact §51-11-6 of said
9 code, all relating generally to electoral reforms of the West Virginia Judiciary; requiring the
10 election of justices of the Supreme Court of Appeals, judges of the intermediate court of
11 appeals, circuit court judges, family court judges and magistrates be on a partisan basis;
12 requiring that elections to certain offices be on a division basis when more than one justice
13 of the Supreme Court of Appeals, judges of the intermediate court of appeals, circuit judge,
14 family court judge or magistrate is to be elected; providing for the timing and frequency of
15 election; providing for the commencement of terms of office; establishing ballot design and
16 printing; providing that the nomination for elections for justice of the Supreme Court of
17 Appeals, judges of the intermediate court of appeals, circuit judge, family court judge or
18 magistrate are to be held on the same date as the primary election; providing that elections
19 for justice of the Supreme Court of Appeals, judges of the intermediate court of appeals,
20 circuit judge, family court judge or magistrate are to be held on the same date as the
21 general election; requiring nonpartisan ballots be used; establishing filing announcement
22 of candidacies, including the timing, location and information necessary thereto; providing
23 for the order of appearance of offices on the ballot; establishing ballot content; providing
24 the procedures for the filling of vacancies in the offices of justices of the Supreme Court of
25 Appeals, circuit judge, family court judge or magistrate; providing occasions for special
26 elections to be held to fill vacancies; providing the timing of commencement of the terms of

27 offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or
 28 magistrate; and providing for the continuing applicability of the West Virginia Supreme
 29 Court of Appeals Public Campaign Financing Program.

Be it enacted by the Legislature of West Virginia:

CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-16. Election of state officers.

1 (a) At the general election to be held in 1968, and every fourth year thereafter, there shall
 2 be elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and
 3 Commissioner of Agriculture. At the general election in 1968, and every second year thereafter,
 4 there shall be elected a member of the State Senate for each senatorial district, and a member or
 5 members of the House of Delegates of the state from each county or each delegate district.

6 (b) At the time of the ~~primary~~ general election to be held in the year ~~2016~~ 2024, and every
 7 12th ~~twelfth~~-year thereafter, there shall be elected ~~one justice~~ two justices of the Supreme Court of
 8 Appeals, and at the time of the primary general election to be held in ~~2020~~ 2028, and every 12th
 9 year thereafter, ~~two justices~~ one justice of the Supreme Court of Appeals and at the time of the
 10 ~~primary~~ election to be held in ~~2024~~ 2032, and every 12th year thereafter, two justices of the
 11 Supreme Court of Appeals. Effective with the primary election held in the year ~~2016~~ 2024, the
 12 election of justices of the Supreme Court of Appeals shall be on a ~~nonpartisan~~ partisan basis and
 13 by division as set forth more fully in §3-5-1 *et seq.* of this code.

14 (c) At the time of the primary election to be held in the year 2024, and every 10th year
 15 thereafter, there shall be elected one judge to a seat of the Intermediate Court of Appeals; at the
 16 time of the primary election to be held in 2026, and every 10th year thereafter, one judge to a seat of
 17 the Intermediate Court of Appeals; and at the time of the primary election to be held in 2028, and
 18 every 10th year thereafter, one judge to a seat of the Intermediate Court of Appeals. Effective with

19 the primary election held in the year 2024, the election of Judges of the Intermediate Court of
 20 Appeals shall be on a ~~nonpartisan~~ partisan basis and by division as set forth more fully in §3-5-1 *et*
 21 *seq.* of this code.

§3-1-17. Election of circuit judges; county and district officers; magistrates.

1 (a) There shall be elected, at the time of the ~~primary~~ general election to be held in 2016
 2 2024, and every eighth year thereafter, one judge of the circuit court of every judicial circuit entitled
 3 to one judge, and one judge for each numbered division of the judicial circuit in those judicial
 4 circuits entitled to two or more circuit judges; and at the time of the primary election to be held in
 5 2016, and in every fourth year thereafter, the number of magistrates prescribed by law for the
 6 county. Beginning with the election held in the year ~~2016~~ 2024, an election for the purpose of
 7 electing judges of the circuit court, or an election for the purpose of electing magistrates, shall be
 8 upon a ~~nonpartisan~~ partisan ballot printed for the purpose.

9 (b) There shall be elected, at the general election to be held in 1992, and every fourth year
 10 thereafter, a sheriff, prosecuting attorney, surveyor of lands, and the number of assessors
 11 prescribed by law for the county; and at the general election to be held in 1990, and every second
 12 year thereafter, a commissioner of the county commission for each county; and at the general
 13 election to be held in 1992, and every sixth year thereafter, a clerk of the county commission and a
 14 clerk of the circuit court for each county.

15 (c) Effective with the primary election of ~~2016~~ 2024, all elections for judge of the circuit
 16 courts in the respective circuits and magistrates in each county will be elected on a ~~nonpartisan~~
 17 partisan basis and by division as set forth more fully in §3-5-1 *et seq.* of this code.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub numbers.

1 (a) The board of ballot commissioners in counties using ballots upon which votes may be
 2 recorded by means of marking with electronically sensible ink or pencil and which marks are

3 tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the
4 electronic voting system for use in elections.

5 (b) (1) For the primary election, the heading of the ballot, the type faces, the names and
6 arrangement of offices and the printing of names and arrangement of candidates within each office
7 are to conform as nearly as possible to §3-5-13 and §3-5-13a of this code.

8 (2) For the general election, the heading of the ballot, the type faces, the names and
9 arrangement of offices and the printing of names and the arrangement of candidates within each
10 office are to conform as nearly as possible to §3-6-2 of this code.

11 (3) Effective with the primary election held in ~~2016~~ 2024 and thereafter, the following
12 nonpartisan elections are to be separated from the partisan ballot and separately headed in
13 display type with a title clearly identifying the purpose of the election and constituting a separate
14 ballot wherever a separate ballot is required under this chapter:

15 ~~(A) Nonpartisan elections for judicial offices, by division, of:~~

16 ~~(i) Justice of the Supreme Court of Appeals;~~

17 ~~(ii) Judge of the Intermediate Court of Appeals;~~

18 ~~(iii) Judge of the circuit court;~~

19 ~~(iv) Family court judge; and~~

20 ~~(v) Magistrate;~~

21 ~~(B) (A) Nonpartisan elections for Board of Education; and~~

22 ~~(C) (B) Any question to be voted upon.~~

23 ~~(4) Beginning in the primary election to be held in the year 2020 and in each election~~
24 ~~thereafter, the nonpartisan judicial elections described in subparagraphs (i) through (iv),~~
25 ~~paragraph (A), subdivision (3), of this subsection shall appear immediately after the state ticket~~
26 ~~and shall immediately precede the county ticket, in the same manner prescribed in §3-5-13a of this~~
27 ~~code~~

28 ~~(5) (4) Both the face and the reverse side of the ballot may contain the names of~~

29 candidates only if means to ensure the secrecy of the ballot are provided and lines for the
30 signatures of the poll clerks on the ballot are printed on a portion of the ballot which is deposited in
31 the ballot box and upon which marks do not interfere with the proper tabulation of the votes.

32 ~~(6)~~ (5) The arrangement of candidates within each office is to be determined in the same
33 manner as for other electronic voting systems, as prescribed in this chapter. On the general
34 election ballot for all offices, and on the primary election ballot only for those offices to be filled by
35 election, except delegate to national convention, lines for entering write-in votes are to be provided
36 below the names of candidates for each office, and the number of lines provided for any office shall
37 equal the number of persons to be elected, or three, whichever is fewer. The words "WRITE-IN, IF
38 ANY" are to be printed, where applicable, directly under each line for write-ins. The lines are to be
39 opposite a position to mark the vote.

40 (c) Except for electronic voting systems that utilize screens upon which votes may be
41 recorded by means of a stylus or by means of touch, the primary election ballots are to be printed
42 in the color of ink specified by the Secretary of State for the various political parties, and the
43 general election ballot is to be printed in black ink. For electronic voting systems that utilize
44 screens upon which votes may be recorded by means of a stylus or by means of touch, the primary
45 ballots and the general election ballot are to be printed in black ink. All ballots are to be printed,
46 where applicable, on white paper suitable for automatic tabulation and are to contain a perforated
47 stub at the top or bottom of the ballot, which is to be numbered sequentially in the same manner as
48 provided in §3-5-13 of this code, or are to be displayed on the screens of the electronic voting
49 system upon which votes are recorded by means of a stylus or touch. The number of ballots
50 printed and the packaging of ballots for the precincts are to conform to the requirements for paper
51 ballots provided in this chapter.

52 (d) In addition to the official ballots, the ballot commissioners shall provide all other
53 materials and equipment necessary to the proper conduct of the election.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-4. Nomination of candidates in primary elections.

1 (a) At each primary election, the candidate or candidates of each political party for all
2 offices to be filled at the ensuing general election by the voters of the entire state, of each
3 congressional district, of each state senatorial district, of each delegate district, of each judicial
4 circuit of West Virginia, ~~and~~ of each county, and of each magisterial district in the state shall be
5 nominated by the voters of the different political parties, except that no presidential elector shall be
6 nominated at a primary election.

7 (b) In primary elections a plurality of the votes cast shall be sufficient for the nomination of
8 candidates for office. Where only one candidate of a political party for any office in a political
9 division, including party committeemen and delegates to national conventions, is to be chosen, or
10 where a judicial circuit has two more circuit judges and one circuit judge is to be chosen for each
11 numbered division within the circuit, the candidate receiving the highest number of votes therefor
12 in the primary election shall be declared the party nominee for such office. Where two or more
13 such candidates are to be chosen in the primary election, the candidates constituting the proper
14 number to be so chosen who shall receive the highest number of votes cast in the political division
15 in which they are candidates shall be declared the party nominees and choices for such offices,
16 except that:

17 (1) Candidates for the office of commissioner of the county commission shall be nominated
18 and elected in accordance with ~~the provisions of~~ section ten, article nine of the Constitution of the
19 State of West Virginia and the requirements of §7-1-1-b of this code;

20 (2) Members of county boards of education shall be elected at primary elections in
21 accordance with ~~the provisions of~~ §3-5-5 and §3-5-6 of this code;

22 (3) Candidates for the House of Delegates shall be nominated and elected in accordance
23 with the residence restrictions provided in §1-2-1 of this code; and

24 (4) In judicial circuits having numbered divisions, each numbered division shall be tallied
25 separately and the candidate in each division receiving a plurality of the votes case shall be

26 declared the party nominee for the office in that numbered division.

27 (c) In case of tie votes between candidates for party nominations or elections in primary
28 elections, the choice of the political party shall be determined by the executive committee of the
29 party for the political division in which such persons are candidates.

§3-5-6a. Election of justices of the Supreme Court of Appeals.

1 (a) An election for the purpose of electing a justice or justices of the Supreme Court of
2 Appeals shall be held on the same date as the primary general election, as provided by law, upon a
3 ~~nonpartisan~~ partisan ballot by division printed for this purpose. For election purposes, in each
4 election at which shall be elected more than one justice of the Supreme Court of Appeals, the
5 election shall be by numbered division corresponding to the number of justices being elected.
6 Each justice shall be elected at large from the entire state.

7 (b) In each ~~nonpartisan~~ partisan election by division for a justice of the Supreme Court of
8 Appeals, the candidates for election in each numbered division shall be tallied separately, and the
9 board of canvassers shall declare and certify the election of the eligible candidate receiving the
10 highest numbers of votes cast within a numbered division to fill any full terms.

11 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie
12 vote.

§3-5-6b. Election of circuit judges.

1 (a) An election for the purpose of electing a circuit court judge or judges shall be held on
2 the same date as the primary general election in their respective circuits, as provided by law,
3 upon a ~~nonpartisan~~ partisan ballot by division printed for this purpose.

4 (b) In each ~~nonpartisan~~ partisan election by division for a circuit court judge, the candidates
5 for election in each numbered division shall be tallied separately, and the board of canvassers
6 shall declare and certify the election of the eligible candidate receiving the highest numbers of
7 votes cast within a numbered division to fill any full terms.

8 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie

9 vote.

§3-5-6c. Election of family court judges.

1 (a) An election for the purpose of electing a family court judge or judges shall be held on the
2 same date as the ~~primary~~ general election in their respective circuits, as provided by law, upon a
3 ~~nonpartisan~~ partisan ballot by division printed for this purpose.

4 (b) In each ~~nonpartisan~~ partisan election by division for a family court judge, the candidates
5 for election in each numbered division shall be tallied separately, and the board of canvassers
6 shall declare and certify the election of the eligible candidate receiving the highest numbers of
7 votes cast within a numbered division to fill any full terms.

8 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie
9 vote.

§3-5-6d. Election of magistrates.

1 (a) An election for the purpose of electing a magistrate or magistrates by division shall be
2 held on the same date as the ~~primary~~ general election in their respective circuits, as provided by
3 law, upon a ~~nonpartisan~~ partisan ballot by division printed for this purpose.

4 (b) In each ~~nonpartisan~~ partisan election by division for a magistrate, the candidates for
5 election in each numbered division shall be tallied separately, and the board of canvassers shall
6 declare and certify the election of the eligible candidate receiving the highest numbers of votes
7 cast within a numbered division to fill any full terms.

8 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie
9 vote.

§3-5-6e. Election of judges of the Intermediate Court of Appeals.

1 (a) An election for the purpose of electing a Judge or Judges of the Intermediate Court of
2 Appeals shall be held on the same date as the ~~primary~~ general election, as provided by law, upon a
3 ~~nonpartisan~~ partisan ballot by division printed for this purpose.

4 (b) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie

5 vote.

§3-5-7. Filing certificates of announcements of candidacies; requirements; withdrawal of candidates when section applicable.

1 (a) Any person who is eligible and seeks to hold an office or political party position to be
2 filled by election in any primary or general election held under the provisions of this chapter shall
3 file a certificate of announcement declaring his or her candidacy for the nomination or election to
4 the office.

5 (b) The certificate of announcement shall be filed as follows:

6 (1) Candidates for the House of Delegates, the State Senate, circuit judge, family court
7 judge, and any other office or political position to be filled by the voters of more than one county
8 shall file a certificate of announcement with the Secretary of State.

9 (2) Candidates for an office or political position to be filled by the voters of a single county
10 or a subdivision of a county, except for candidates for the House of Delegates, State Senate,
11 circuit judge or family court judge, shall file a certificate of announcement with the clerk of the
12 county commission.

13 (3) Candidates for an office to be filled by the voters of a municipality shall file a certificate
14 of announcement with the recorder or city clerk.

15 (c) The certificate of announcement shall be filed with the proper officer not earlier than the
16 second Monday in January before the primary election day and not later than the last Saturday in
17 January before the primary election day and must be received before midnight, eastern standard
18 time, of that day or, if mailed, shall be postmarked by the United States Postal Service before that
19 hour. This includes the offices of Justice of the Supreme Court of Appeals, Judge of the
20 Intermediate Court of Appeals, circuit court judge, family court judge and magistrate, which are to
21 be filled on a ~~nonpartisan~~ partisan and division basis at the primary general election: *Provided*,
22 That on the final day of a political filing period, the office of the Secretary of State shall be open
23 from 9:00 a.m. until 11:59 p.m. The offices of the County Clerk in all counties of the state shall be

24 open on that final day of a political filing period from 9:00 a.m. until 12:00 p.m.

25 (d) The certificate of announcement shall be on a form prescribed by the Secretary of State
26 on which the candidate shall make a sworn statement before a notary public or other officer
27 authorized to administer oaths, containing the following information:

28 (1) The date of the election in which the candidate seeks to appear on the ballot;

29 (2) The name of the office sought; the district, if any; and the division, if any;

30 (3) The legal name of the candidate and the exact name the candidate desires to appear
31 on the ballot, subject to limitations prescribed in §3-5-13 of this code;

32 (4) The county of residence and a statement that the candidate is a legally qualified voter of
33 that county; and the magisterial district of residence for candidates elected from magisterial
34 districts or under magisterial district limitations;

35 (5) The specific address designating the location at which the candidate resides at the time
36 of filing, including number and street or rural route and box number and city, state, and zip code;

37 (6) For partisan elections, the name of the candidate's political party and a statement that
38 the candidate: (A) Is a member of and affiliated with that political party as evidenced by the
39 candidate's current registration as a voter affiliated with that party; and (B) has not been registered
40 as a voter affiliated with any other political party for a period of 60 days before the date of filing the
41 announcement;

42 (7) For candidates for delegate to national convention, the name of the presidential
43 candidate to be listed on the ballot as the preference of the candidate on the first convention ballot;
44 or a statement that the candidate prefers to remain "uncommitted";

45 (8) A statement that the person filing the certificate of announcement is a candidate for the
46 office in good faith;

47 (9) The words "subscribed and sworn to before me this _____ day of _____,
48 20____" and a space for the signature of the officer giving the oath.

49 (e) The Secretary of State or the board of ballot commissioners, as the case may be, may

50 refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a
51 certified copy of the voter's registration record of the candidate showing that the candidate was
52 registered as a voter in a party other than the one named in the certificate of announcement during
53 the 60 days immediately preceding the filing of the certificate: *Provided*, That unless a signed
54 formal complaint of violation of this section and the certified copy of the voter's registration record
55 of the candidate are filed with the officer receiving that candidate's certificate of announcement no
56 later than 10 days following the close of the filing period, the candidate may not be refused
57 certification for this reason.

58 (f) The certificate of announcement shall be subscribed and sworn to by the candidate
59 before some officer qualified to administer oaths, who shall certify the same. Any person who
60 knowingly provides false information on the certificate is guilty of false swearing and shall be
61 punished in accordance with §3-9-3 of this code.

62 (g) Any candidate for delegate to a national convention may change his or her statement of
63 presidential preference by notifying the Secretary of State by letter received by the Secretary of
64 State no later than the third Tuesday following the close of candidate filing. When the rules of the
65 political party allow each presidential candidate to approve or reject candidates for delegate to
66 convention who may appear on the ballot as committed to that presidential candidate, the
67 presidential candidate or the candidate's committee on his or her behalf may file a list of approved
68 or rejected candidates for delegate and the Secretary of State shall list as "uncommitted" any
69 candidate for delegate who is disapproved by the presidential candidate.

70 (h) A person may not be a candidate for more than one office or office division at any
71 election: *Provided*, That a candidate for an office may also be a candidate for President of the
72 United States, for membership on political party executive committees or for delegate to a political
73 party national convention. ~~*Provided, however*, That an unsuccessful candidate for a nonpartisan~~
74 ~~office in an election held concurrently with the primary election may be appointed under the~~
75 ~~provisions of section nineteen of this article to fill a vacancy on the general ballot~~

76 (i) A candidate who files a certificate of announcement for more than one office or division
77 and does not withdraw, as provided by §3-5-11 of this code, from all but one office prior to the close
78 of the filing period may not be certified by the Secretary of State or placed on the ballot for any
79 office by the board of ballot commissioners.

§3-5-13. Form and contents of ballots.

1 The following provisions apply to the form and contents of election ballots:

2 (1) The face of every primary election ballot shall conform as nearly as practicable to that
3 used at the general election.

4 (2) The heading of every ballot is to be printed in display type. The heading is to contain a
5 ballot title, the name of the county, the state, the words "Primary Election" and the month, day and
6 year of the election. The ballot title of the political party ballots is to contain the words "Official
7 Ballot of the (Name) Party" and the official symbol of the political party may be included in the
8 heading.

9 ~~(A) The ballot title of any separate paper ballot or portion of any electronic or voting~~
10 ~~machine ballot for all judicial officers shall commence with the words "Nonpartisan Ballot of~~
11 ~~Election of Judicial Officers" and each such office shall be listed in the following order:~~

12 ~~(i) The ballot title of any separate paper ballot or portion of any electronic or voting machine~~
13 ~~ballot for all justices of the Supreme Court of Appeals shall contain the words "Nonpartisan Ballot~~
14 ~~of Election of Justice(s) of the Supreme Court of Appeals of West Virginia". The names of the~~
15 ~~candidates for the Supreme Court of Appeals shall be printed by division without references to~~
16 ~~political party affiliation or registration.~~

17 ~~(ii) The ballot title of any separate paper ballot or portion of any electronic or voting~~
18 ~~machine ballot for all judges of the Intermediate Court of Appeals shall contain the words~~
19 ~~"Nonpartisan Ballot of Election of Judge(s) of the Intermediate Court of Appeals". The names of~~
20 ~~the candidates for the Intermediate Court of Appeals shall be printed by division without~~
21 ~~references to political party affiliation or registration.~~

22 ~~(iii) The ballot title of any separate paper ballot or portion of any electronic or voting~~
23 ~~machine ballot for all circuit court judges in the respective circuits shall contain the words~~
24 ~~"Nonpartisan Ballot of Election of Circuit Court Judge(s)". The names of the candidates for the~~
25 ~~respective circuit court judge office shall be printed by division without references to political party~~
26 ~~affiliation or registration.~~

27 ~~(iv) The ballot title of any separate paper ballot or portion of any electronic or voting~~
28 ~~machine ballot for all family court judges in the respective circuits shall contain the words~~
29 ~~"Nonpartisan Ballot of Election of Family Court Judge(s)". The names of the candidates for the~~
30 ~~respective family court judge office shall be printed by division without references to political party~~
31 ~~affiliation or registration.~~

32 ~~(v) The ballot title of any separate paper ballot or portion of any electronic or voting~~
33 ~~machine ballot for all magistrates in the respective circuits shall contain the words "Nonpartisan~~
34 ~~Ballot of Election of Magistrate(s)". The names of the candidates for the respective magistrate~~
35 ~~office shall be printed by division without references to political party affiliation or registration~~

36 ~~(B) (A)~~ The ballot title of any separate paper ballot or portion of any electronic or voting
37 machine ballot for the Board of Education is to contain the words "Nonpartisan Ballot of Election of
38 Members of the _____ County Board of Education". The districts for which fewer than
39 two candidates may be elected and the number of available seats are to be specified and the
40 names of the candidates are to be printed without reference to political party affiliation and without
41 designation as to a particular term of office.

42 ~~(C) (B)~~ Any other ballot or portion of a ballot on a question is to have a heading which
43 clearly states the purpose of the election according to the statutory requirements for that question.

44 (3) (A) For paper ballots, the heading of the ballot is to be separated from the rest of the
45 ballot by heavy lines and the offices shall be arranged in columns with the following headings, from
46 left to right across the ballot: "National Ticket", "State Ticket", "~~Nonpartisan Judicial Ballot~~",
47 "County Ticket", "Nonpartisan Ballot" in a nonpresidential election year, "District Ticket" or, in a

48 presidential election year, "National Convention". The columns are to be separated by heavy lines.
49 Within the columns, the offices are to be arranged in the order prescribed in §3-5-13a of this code.

50 (B) For voting machines, electronic voting devices and any ballot tabulated by electronic
51 means, the offices are to appear in the same sequence as prescribed in §3-5-13a of this code and
52 under the same headings as prescribed in paragraph (A) of this subdivision. The number of pages,
53 columns or rows, where applicable, may be modified to meet the limitations of ballot size and
54 composition requirements subject to approval by the Secretary of State.

55 (C) The title of each office is to be separated from preceding offices or candidates by a line
56 and is to be printed in bold type no smaller than eight point. Below the office is to be printed the
57 number of the district, if any, the number of the division, if any, and the words "Vote for _____"
58 with the number to be nominated or elected or "Vote For Not More Than _____" in
59 multicandidate elections. For offices in which there are limitations relating to the number of
60 candidates which may be nominated, elected or appointed to or hold office at one time from a
61 political subdivision within the district or county in which they are elected, there is to be a clear
62 explanation of the limitation, as prescribed by the Secretary of State, printed in bold type
63 immediately preceding the names of the candidates for those offices on the ballot in every voting
64 system. For counties in which the number of county commissioners exceeds three and the total
65 number of members of the county commission is equal to the number of magisterial districts within
66 the county, the office of county commission is to be listed separately for each district to be filled
67 with the name of the magisterial district and the words "Vote for One" printed below the name of
68 the office: *Provided*, That the office title and applicable instructions may span the width of the ballot
69 so as it is centered among the respective columns.

70 (D) The location for indicating the voter's choices on the ballot is to be clearly shown. For
71 paper ballots, other than those tabulated electronically, the official primary ballot is to contain a
72 square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular
73 column of squares before each column of names.

74 (4) (A) The name of every candidate certified by the Secretary of State or the board of
75 ballot commissioners is to be printed in capital letters in no smaller than eight point type on the
76 ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the
77 name of each candidate is to appear in the form set out by the candidate on the certificate of
78 announcement, but in no case may the name misrepresent the identity of the candidate nor may
79 the name include any title, position, rank, degree, or nickname implying or inferring any status as a
80 member of a class or group or affiliation with any system of belief.

81 (B) The city of residence of every candidate, the state of residence of every candidate
82 residing outside the state, the county of residence of every candidate for an office on the ballot in
83 more than one county and the magisterial district of residence of every candidate for an office
84 subject to magisterial district limitations are to be printed in lower case letters beneath the names
85 of the candidates.

86 (C) The arrangement of names within each office must be determined as prescribed in §3-
87 5-13a of this code.

88 (D) If the number of candidates for an office exceeds the space available on a column or
89 ballot page and requires that candidates for a single office be separated, to the extent possible, the
90 number of candidates for the office on separate columns or pages are to be nearly equal and clear
91 instructions given the voter that the candidates for the office are continued on the following column
92 or page.

93 (5) When an insufficient number of candidates has filed for a party to make the number of
94 nominations allowed for the office or for the voters to elect sufficient members to the Board of
95 Education or to executive committees, the vacant positions on the ballot shall be filled with the
96 words "No Candidate Filed": *Provided*, That in paper ballot systems which allow for write-ins to be
97 made directly on the ballot, a blank line shall be placed in any vacant position in the office of Board
98 of Education or for election to any party executive committee. A line shall separate each candidate
99 from every other candidate for the same office. Notwithstanding any other provision of this code, if

100 there are multiple vacant positions on a ballot for one office, the multiple vacant positions which
101 would otherwise be filled with the words "No Candidate Filed" may be replaced with a brief detailed
102 description, approved by the Secretary of State, indicating that there are no candidates listed for
103 the vacant positions.

104 (6) In presidential election years, the words "For election in accordance with the plan
105 adopted by the party and filed with the Secretary of State" is to be printed following the names of all
106 candidates for delegate to national convention.

107 (7) All paper ballots are to be printed in black ink on paper sufficiently thick so that the
108 printing or marking cannot be discernible from the back: *Provided*, That no paper ballot voted
109 pursuant to ~~the provisions of~~ 42 U. S. C. §1973, *et seq.*, the Uniformed and Overseas Citizens
110 Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type,
111 envelope type, or notarization requirement. Ballot cards and paper for printing ballots using
112 electronically sensible ink are to meet minimum requirements of the tabulating systems and are to
113 conform in size and weight to ensure ease in tabulation.

114 (8) Ballots are to contain perforated tabs at the top of the ballots and are to be printed with
115 unique sequential numbers from one to the highest number representing the total number of
116 ballots printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth of
117 an inch wide and the ballot is to be trimmed to within one-half inch of that border.

118 (9) On the back of every official ballot or ballot card the words "Official Ballot" with the name
119 of the county and the date of the election are to be printed. Beneath the date of the election there
120 are to be two blank lines followed by the words "Poll Clerks".

121 (10) The face of sample paper ballots and sample ballot labels are to be like other official
122 ballots or ballot labels except that the word "sample" is to be prominently printed across the front of
123 the ballot in a manner that ensures the names of candidates are not obscured and the word
124 "sample" may be printed in red ink. No printing may be placed on the back of the sample.

§3-5-13a. Order of offices and candidates on the ballot; uniform drawing date.

1 (a) The order of offices for state and county elections on all ballots within the state shall be
2 as prescribed herein. When the office does not appear on the ballot in an election, then it shall be
3 omitted from the sequence. When an unexpired term for an office appears on the ballot along with
4 a full term, the unexpired term shall appear immediately below the full term.

5 NATIONAL TICKET: President (and Vice President in the general election), United States
6 Senator, member of the United States House of Representatives.

7 STATE TICKET: Governor, Secretary of State, Auditor, Treasurer, Commissioner of
8 Agriculture, Attorney General, Justice of the Supreme Court of Appeals, Judge of the
9 Intermediate Court of Appeals, State Senator, member of the House of Delegates, circuit court
10 judge in multicounty districts, family court judge in multicounty districts, any other multicounty
11 office, state executive committee.

12 ~~NONPARTISAN JUDICIAL BALLOT: Justice of the Supreme Court of Appeals, judge of~~
13 ~~the circuit court, family judge, magistrate.~~

14 COUNTY TICKET: Circuit judge in single county districts, family court judges in single
15 county districts, ~~Clerk~~ clerk of the circuit court, county commissioner, clerk of the county
16 commission, prosecuting attorney, sheriff, assessor, magistrate, surveyor, congressional district
17 executive committee, senatorial district executive committee in multicounty districts, delegate
18 district executive committee in multicounty districts.

19 NONPARTISAN BALLOT: Nonpartisan elections for board of education, conservation
20 district supervisor, any question to be voted upon.

21 DISTRICT TICKET: County executive committee.

22 NATIONAL CONVENTION: Delegate to the national convention -- congressional district,
23 delegate to the national convention -- at-large.

24 (b) Except for office divisions in which no more than one person has filed a certificate of
25 announcement, the arrangement of names for all offices shall be determined by lot according to
26 the following provisions:

27 (1) On the fourth Tuesday following the close of the candidate filing, beginning at 9:00 a.m.,
 28 a drawing by lot shall be conducted in the office of the clerk of the county commission in each
 29 county. Notice of the drawing shall be given on the form for the certificate of announcement and no
 30 further notice shall be required. The clerk of the county commission shall superintend and conduct
 31 the drawing and the method of conducting the drawing shall be prescribed by the Secretary of
 32 State.

33 (2) Except as provided herein, the position of each candidate within each office division
 34 shall be determined by the position drawn for that candidate individually: *Provided*, That if fewer
 35 candidates file for an office division than the total number to be nominated or elected, the vacant
 36 positions shall appear following the names of all candidates for the office.

37 (3) Candidates for delegate to national convention who have filed a commitment to a
 38 candidate for president shall be listed alphabetically within the group of candidates committed to
 39 the same candidate for president and uncommitted candidates shall be listed alphabetically in an
 40 uncommitted category. The position of each group of committed candidates and uncommitted
 41 candidates shall be determined by lot by drawing the names of the presidential candidates and for
 42 an uncommitted category.

43 (4) A candidate or the candidate's representative may attend the drawings.

ARTICLE 10. FILLING VACANCIES.

§3-10-3. Vacancies in offices of state officials, justices, judges, and magistrates.

1 (a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney
 2 General, Commissioner of Agriculture, or in any office created or made elective to be filled by the
 3 voters of the entire state, is filled by the Governor of the state by appointment and subsequent
 4 election to fill the remainder of the term, if required by §3-10-1 of this code. The Governor shall
 5 make the appointment from a list of three legally qualified persons submitted by the party
 6 executive committee of the same political party with which the person holding the office
 7 immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of

8 qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the
9 vacancy occurs, and the Governor shall duly make his or her appointment to fill the vacancy from
10 the list of legally qualified persons within five days after the list is received. If the list is not
11 submitted to the Governor within the 15-day period, the Governor shall appoint, within five days
12 thereafter, a legally qualified person of the same political party with which the person holding the
13 office immediately preceding the vacancy was affiliated at the time the vacancy occurred:
14 *Provided*, That the provisions of this subsection do not apply to §3-10-3(b), §3-10-3(c), §3-10-3(d),
15 and §3-10-3(e) of this code.

16 (b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge
17 of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court is filled by
18 the Governor of the state by appointment and, if the unexpired term be for a period of more than
19 three years, by a subsequent election to fill the remainder of the term, as required by §3-10-3(d) of
20 this code. If an election is required under §3-10-3(d) of this code, the Governor, circuit court, or the
21 chief judge thereof in vacation, is responsible for the proper proclamation by order and notice
22 required by §3-10-1 of this code. The amendments to this subsection enacted during the regular
23 session of the Legislature in the year 2022 shall be applicable to any vacancy existing at the date
24 of passage of such amendments.

25 (c) Any vacancy in the office of magistrate is appointed according to ~~the provisions of~~ §50-
26 1-6 of this code, and, if the unexpired term be for a period of more than two years, by a subsequent
27 election to fill the remainder of the term, as required by §3-10-3(d) of this code.

28 (d) (1) When the vacancy in the office of Justice of the Supreme Court of Appeals, judge of
29 the Intermediate Court of Appeals, judge of the circuit court, judge of a family court, or magistrate
30 occurs after the 84th day before a general election, and the affected term of office ends on
31 December 31 following the succeeding general election two years later, the person appointed to fill
32 the vacancy shall continue in office until the completion of the term.

33 (2) When the vacancy occurs before the close of the candidate filing period for the primary

34 election, and if the unexpired term be for a period of greater than three years, the vacancy shall be
 35 filled by election in ~~the nonpartisan~~ a judicial election held concurrently with the primary election
 36 and the appointment shall continue until a successor is elected and certified.

37 (3) When the vacancy occurs after the close of candidate filing for the primary election and
 38 not later than 84 days before the general election, and if the unexpired term be for a period of
 39 greater than three years, the vacancy shall be filled by election in ~~a nonpartisan~~ the judicial
 40 election held concurrently with the general election, and the appointment shall continue until a
 41 successor is elected and certified.

42 (e) When an election to fill a vacancy is required to be held at the general election,
 43 according to ~~the provisions of~~ §3-10-3(d) of this code, a special candidate filing period shall be
 44 established. Candidates seeking election to any unexpired term for Justice of the Supreme Court
 45 of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, judge of the family
 46 court, or magistrate shall file a certificate of announcement and pay the filing fee no earlier than the
 47 first Monday in August and no later than 77 days before the general election.

ARTICLE 12. WEST VIRGINIA SUPREME COURT OF APPEALS PUBLIC CAMPAIGN

FINANCING

PILOT

PROGRAM.

§3-12-3. Definitions.

1 As used in this article, the following terms and phrases have the following meanings:

2 (1) "Candidate's committee" means a political committee established with the approval of
 3 or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking
 4 a particular office or to support or aid his or her nomination or election to an office in an election
 5 cycle. If a candidate directs or influences the activities of more than one active committee in a
 6 current campaign, those committees shall be considered one committee for the purpose of
 7 contribution limits.

8 (2) "Certified candidate" means an individual seeking election to the West Virginia

9 Supreme Court of Appeals who has been certified in accordance with §3-12-10 of this code as
10 having met all of the requirements for receiving public campaign financing from the fund.

11 ~~(3)~~ "Contribution" means a gift subscription, assessment, payment for services, dues,
12 advance, donation, pledge, contract, agreement, forbearance or promise of money or other
13 tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other
14 tangible thing of value to a person, made for the purpose of influencing the nomination, election or
15 defeat of a candidate. An offer or tender of a contribution is not a contribution if expressly and
16 unconditionally rejected or returned. A contribution does not include volunteer personal services
17 provided without compensation: *Provided*, That a nonmonetary contribution is to be considered at
18 fair market value for reporting requirements and contribution limitations.

19 ~~(4)~~ "Exploratory contribution" means a contribution of no more than \$1,000 made by an
20 individual adult, including a participating candidate and members of his or her immediate family,
21 during the exploratory period but prior to filing the declaration of intent. Exploratory contributions
22 may not exceed \$20,000 in the aggregate.

23 ~~(5)~~ "Exploratory period" means the period during which a participating candidate may raise
24 and spend exploratory contributions to examine his or her chances of election and to qualify for
25 public campaign financing under this article. The exploratory period begins on January 1 the year
26 before the election in which the candidate may run for Justice of the Supreme Court of Appeals
27 and ends on the last Saturday in January of the election year.

28 ~~(6)~~ "Financial agent" means any individual acting for and by himself or herself, or any two
29 or more individuals acting together or cooperating in a financial way to aid or take part in the
30 nomination or election of any candidate for public office, or to aid or promote the success or defeat
31 of any political party at any election.

32 ~~(7)~~ "Fund" means the Supreme Court of Appeals Public Campaign Financing Fund created
33 by section five of this article.

34 ~~(8)~~ "Immediate family" or "immediate family members" means the spouse, parents, step-

35 parents, siblings and children of the participating candidate.

36 ~~(9)~~ "Nonparticipating candidate" means a candidate who is:

37 (A) Seeking election to the Supreme Court of Appeals;

38 (B) Is neither certified nor attempting to be certified to receive public campaign financing
39 from the fund; and

40 (C) Has an opponent who is a participating or certified candidate.

41 ~~(10) "Nonpartisan judicial election campaign period" means the period beginning on the
42 first day of the primary election filing period, as determined under section seven, article five of this
43 chapter, and ending on the day of the nonpartisan judicial election~~

44 ~~(11) "Participating candidate" means a candidate who is seeking election to the Supreme
45 Court of Appeals and is attempting to be certified in accordance with section ten of this article to
46 receive public campaign financing from the fund.~~

47 ~~(12) "Person" means an individual, partnership, committee, association and any other
48 organization or group of individuals.~~

49 ~~(13) "Qualifying contribution" means a contribution received from a West Virginia
50 registered voter of not less than \$1 nor more than \$100 in the form of cash, check or money order,
51 made payable to a participating candidate or the candidate's committee, or in the form of an
52 electronic payment or debit or credit card payment, received during the qualifying period.~~

53 ~~(14) "Qualifying period" means the period during which participating candidates may raise
54 and spend qualifying contributions in order to qualify to receive public campaign financing.~~

55 (A) For candidates seeking nomination on the primary election ballot, to be placed on the
56 nonpartisan judicial general election ballot, the qualifying period begins on September 1 preceding
57 the election year and ends on the last Saturday in January of the election year.

58 (B) For candidates, other than those nominated during the primary election, seeking to be
59 placed on the general election ballot, the qualifying period begins on June 1 of the election year
60 and ends on October 1 of the election year.

§3-12-6. Sources of revenue for the fund.

1 Revenue from the following sources shall be deposited in the fund:

2 (1) All exploratory and qualifying contributions in excess of the established maximums;

3 (2) Money returned by participating or certified candidates who fail to comply with this
4 article;

5 (3) Unspent or unobligated moneys allotted to certified candidates and remaining unspent
6 or unobligated on the date of the ~~nonpartisan judicial~~ general election for which the money was
7 distributed;

8 (4) If a certified candidate loses, all remaining unspent or unobligated moneys after the
9 primary election;

10 (5) Civil penalties levied by the State Election Commission against candidates for
11 violations of this article;

12 (6) Civil penalties levied by the Secretary of State pursuant to section seven, article eight of
13 this chapter;

14 (7) Voluntary donations made directly to the fund;

15 (8) Any interest income or other return earned on the money's investment;

16 (9) On or before July 1, 2010, and for two successive years thereafter, the State Auditor
17 shall authorize the transfer of the amount of \$1 million from the Purchasing Card Administration
18 Fund established in §12-3-10d of this code to the fund created by this article;

19 (10) On or before July 1, 2015, the state Auditor shall authorize the transfer of the amount
20 of \$400,000 from the Purchasing Card Administration Fund established in §12-3-10d of this code
21 to the fund created by this article; and

22 (11) Money appropriated to the fund.

§3-12-10. Certification of candidates.

1 (a) To be certified, a participating candidate shall apply to the State Election Commission
2 for public campaign financing from the fund and file a sworn statement that he or she has complied

3 and will comply with all requirements of this article throughout the applicable campaign.

4 (b) Upon receipt of a notice from the Secretary of State that a participating candidate has
5 received the required number and amount of qualifying contributions, the State Election
6 Commission shall determine whether the candidate or candidate's committee:

7 (1) Has signed and filed a declaration of intent as required by section seven of this article;

8 (2) Has obtained the required number and amount of qualifying contributions as required
9 by §3-12-9 of this code;

10 (3) Has complied with the contribution restrictions of this article;

11 (4) Is eligible, as provided in §3-5-9 of this code, to appear on the ~~nonpartisan~~ primary or
12 general judicial election ballot; and

13 (5) Has met all other requirements of this article.

14 (c) The State Election Commission shall process applications in the order they are
15 received and shall verify a participating candidate's compliance with the requirements of
16 subsection (b) of this section by using the verification and sampling techniques approved by the
17 State Election Commission.

18 (d) The State Election Commission shall determine whether to certify a participating
19 candidate as eligible to receive public campaign financing no later than three business days after
20 the candidate or the candidate's committee makes his or her final report of qualifying contributions
21 or, if a challenge is filed under subsection (g) of this section, no later than six business days after
22 the candidate or the candidate's committee makes his or her final report of qualifying contributions.
23 A certified candidate shall comply with this article through the ~~nonpartisan~~ general judicial election
24 campaign period.

25 (e) No later than two business days after the State Election Commission certifies that a
26 participating candidate is eligible to receive public campaign financing under this section, the State
27 Election Commission, acting in concert with the State Auditor's office and the State Treasurer's
28 office, shall cause a check to be issued to the candidate's campaign depository account an

29 amount equal to the public campaign financing benefit for which the candidate qualifies under §3-
30 12-11 of this code, minus the candidate's qualifying contributions, and shall notify all other
31 candidates for the same office of its determination.

32 (f) If the candidate desires to receive public financing benefits by electronic transfer, the
33 candidate shall include in his or her application sufficient information and authorization for the
34 State Treasurer to transfer payments to his or her campaign depository account.

35 (g) Any person may challenge the validity of any contribution listed by a participating
36 candidate by filing a written challenge with the State Election Commission setting forth any reason
37 why the contribution should not be accepted as a qualifying contribution. If a contribution is
38 challenged under this subsection, the State Election Commission shall decide the validity of the
39 challenge no later than the end of the next business day after the day that the challenge is filed,
40 unless the State Election Commission determines that the candidate whose contribution is
41 challenged has both a sufficient qualifying number and amount of qualifying contributions to be
42 certified as a candidate under this section without considering the challenge. Within five business
43 days of a challenge, the candidate or candidate's committee who listed any contribution that is the
44 subject of a challenge may file a report with the State Election Commission of an additional
45 contribution collected pursuant to section nine of this article for consideration as a qualifying
46 contribution.

47 (h) A candidate's certification and receipt of public campaign financing may be revoked by
48 the State Election Commission, if the candidate violates this article. A certified candidate who
49 violates this article shall repay all moneys received from the fund to the State Election
50 Commission.

51 (i) The determination of any issue before the State Election Commission is the final
52 administrative determination. Any meetings conducted by the State Elections Commission to
53 certify a candidate's eligibility to receive funds under this article shall may not be subject the public
54 notice and open meeting requirements of §6-9A-1 *et seq.* of this code, but the commission shall

55 concurrently provide public notice of any decision and determination it makes which impacts the
 56 candidate's eligibility to receive funds pursuant to this article. Any person adversely affected by a
 57 decision of the State Election Commission under this article may appeal that decision to the circuit
 58 court of Kanawha County.

59 (j) A candidate may withdraw from being a certified candidate and become a
 60 nonparticipating candidate at any time with the approval of the State Election Commission. Any
 61 candidate seeking to withdraw shall file a written request with the State Election Commission,
 62 which shall consider requests on a case-by-case basis. No certified candidate may withdraw until
 63 he or she has repaid all moneys received from the fund: *Provided*, That the State Election
 64 Commission may, in exceptional circumstances, waive the repayment requirement. The State
 65 Election Commission may assess a penalty not to exceed \$10,000 against any candidate who
 66 withdraws without approval.

**§3-12-11. Schedule and amount of Supreme Court of Appeals Public Campaign Financing
 Fund payments.**

1 (a) The State Election Commission, acting in concert with the State Auditor's office and the
 2 State Treasurer's office, shall have a check issued within two business days after the date on
 3 which the candidate is certified, to make payments from the fund for the ~~nonpartisan~~ judicial
 4 election campaign period available to a certified candidate.

5 (1) In a contested ~~nonpartisan~~ primary judicial election, a certified candidate shall receive
 6 ~~\$525,000~~ \$300,000 in campaign financing from the fund, minus the certified candidate's qualifying
 7 contributions.

8 (2) In an uncontested primary election, a certified candidate shall receive \$50,000 from the
 9 public campaign financing fund, minus the certified candidate's qualifying contributions.

10 (b) Within two business days after the primary election results are certified by the Secretary
 11 of State, the State Election Commission, acting in concert with the State Auditor's office and the

12 State Treasurer's office, shall cause a check to be issued to make payments from the fund for the
 13 general election campaign period available to a certified candidate.

14 (1) In a contested general election, a certified candidate shall receive from the fund an
 15 amount not to exceed \$525,000.

16 (2) In an uncontested general election, a certified candidate shall receive \$35,000 from the
 17 public campaign financing fund.

18 ~~(b)~~ (c) The State Election Commission shall authorize the distribution of campaign
 19 financing moneys to certified candidates in equal amounts. The commission shall propose a
 20 legislative rule on distribution of funds.

21 ~~(e)~~ (d) The State Election Commission may not authorize or direct the distribution of
 22 moneys to certified candidates in excess of the total amount of money deposited in the fund
 23 pursuant to §3-12-6 of this code. If the commission determines that the money in the fund is
 24 insufficient to totally fund all certified candidates, the commission shall authorize the distribution of
 25 the remaining money proportionally, according to each candidate's eligibility for funding. Each
 26 candidate may raise additional money in the same manner as a nonparticipating candidate for the
 27 same office up to the unfunded amount of the candidate's eligible funding.

§3-12-12. Restrictions on contributions and expenditures.

1 (a) A certified candidate or his or her committee may not accept loans or contributions from
 2 any private source, including the personal funds of the candidate and the candidate's immediate
 3 family, during the ~~nonpartisan judicial~~ primary or general election campaign period except as
 4 permitted by this article.

5 (b) After filing the declaration of intent and during the qualifying period, a participating
 6 candidate may not spend or obligate more than he or she has collected in exploratory and
 7 qualifying contributions. After the qualifying period and through the ~~nonpartisan judicial~~ general
 8 election campaign period, a certified candidate may spend or obligate any unspent exploratory or
 9 qualifying contributions and the moneys he or she receives from the fund under ~~the provisions of~~

10 §3-12-11 of this code.

11 (c) A participating or certified candidate may expend exploratory and qualifying
12 contributions and funds received from the fund only for lawful election expenses as provided in §3-
13 8-9 of this code. Moneys distributed to a certified candidate from the fund may be expended only
14 during the ~~nonpartisan judicial~~ primary and general election campaign period for which funds were
15 dispersed. Money from the fund may not be used:

16 (1) In violation of the law;

17 (2) To repay any personal, family or business loans, expenditures or debts; or

18 (3) To help any other candidate.

19 (d) A certified candidate or his or her committee shall return to the fund any unspent and
20 unobligated exploratory contributions, qualifying contributions or moneys received from the fund
21 within 48 hours after the date on which the candidate ceases to be certified.

22 (1) The date on which the candidate ceases to be certified; or

23 (2) The date on which the individual loses the primary election or otherwise ceases to be a
24 candidate.

25 (e) Funds remaining unspent or unobligated after the close of the primary election
26 campaign period may be retained by the candidate for use during the general election campaign
27 period but shall be deducted from the amount the candidate is eligible to receive under subsection
28 (b), section eleven of this article.

29 ~~(e)~~ (f) A certified candidate or his or her committee shall return to the fund any unspent or
30 unobligated public campaign financing funds no later than five business days after the nonpartisan
31 judicial election.

32 ~~(f)~~ (g) A contribution from one person may not be made in the name of another person.

33 ~~(g)~~ (h) A participating or certified candidate or his or her committee receiving qualifying
34 contributions or exploratory contributions from a person not listed on the receipt required by §3-12-
35 8 and §3-12-9 of this code is liable to the State Election Commission for the entire amount of that

36 contribution and any applicable penalties.

37 ~~(h)~~ (i) A certified candidate accepting any benefits under the provisions of this article shall
 38 continue to comply with all of its provisions throughout the ~~nonpartisan judicial~~ primary election
 39 campaign period and general election campaign period.

40 ~~(i)~~ (j) A participating or certified candidate or his or her financial agent shall provide the
 41 Secretary of State with all requested campaign records, including all records of exploratory and
 42 qualifying contributions received and campaign expenditures and obligations, and shall fully
 43 cooperate with any audit of campaign finances requested or authorized by the State Election
 44 Commission.

§3-12-14. Duties of the State Election Commission; Secretary of State.

1 (a) In addition to its other duties, the State Election Commission shall carry out the duties of
 2 this article and complete the following as applicable:

3 (1) Prescribe forms for reports, statements, notices and other documents required by this
 4 article;

5 (2) Make an annual report to the Legislature accounting for moneys in the fund, describing
 6 the State Election Commission's activities and listing any recommendations for changes of law,
 7 administration or funding amounts;

8 (3) Propose emergency and legislative rules for legislative approval, in accordance with
 9 §29A-3-1 *et seq.* of this code, as may be necessary for the proper administration of this article;

10 (4) Enforce this article to ensure that moneys from the fund are placed in candidate
 11 campaign accounts and spent as specified in this article;

12 (5) Monitor reports filed pursuant to this article and the financial records of candidates to
 13 ensure that qualified candidates receive funds promptly and to ensure that moneys required by
 14 this article to be paid to the fund are deposited in the fund;

15 (6) Cause an audit of the fund to be conducted by independent certified public accountants
 16 ninety days after a nonpartisan judicial election. The State Election Commission shall cooperate

17 with the audit, provide all necessary documentation and financial records to those persons
18 conducting the audit and shall maintain a record of all information supplied by the audit;

19 (7) In consultation with the State Treasurer and the State Auditor, develop a rapid, reliable
20 method of conveying funds to certified candidates. In all cases, the commission shall distribute
21 funds to certified candidates in a manner that is expeditious, ensures accountability and
22 safeguards the integrity of the fund;

23 (8) Regularly monitor the receipts, disbursements, obligations and balance in the fund to
24 determine whether the fund will have sufficient moneys to meet its obligations and sufficient
25 moneys available for disbursement during the ~~nonpartisan-judicial~~ primary and general election
26 campaign period; and

27 (9) Transfer a portion of moneys maintained in the fund to the West Virginia Investment
28 Management Board for their supervised investment, after consultation with the State Treasurer,
29 the State Auditor and the West Virginia Investment Management Board.

30 (b) In addition to his or her other duties, the Secretary of State shall carry out the duties of
31 this article and complete the following as applicable:

32 (1) Prescribe forms for reports, statements, notices and other documents required by this
33 article;

34 (2) Prepare and publish information about this article and provide it to potential candidates
35 and citizens of this state;

36 (3) Prepare and publish instructions setting forth methods of bookkeeping and
37 preservation of records to facilitate compliance with this article and to explain the duties of
38 candidates and others participating in elections under this article;

39 (4) Propose emergency and legislative rules for legislative approval in accordance with
40 §29A-3-1 *et seq.* of this code as may be necessary for the proper administration of this article;

41 (5) Enforce this article to ensure that moneys from the fund are placed in candidate
42 campaign accounts and spent as specified in this article;

43 (6) Monitor reports filed pursuant to this article and the financial records of candidates to
 44 ensure that qualified candidates receive funds promptly and to ensure that moneys required by
 45 this article to be paid to the fund are deposited in the fund;

46 (7) Ensure public access to the campaign finance reports required pursuant to this article,
 47 and whenever possible, use electronic means for the reporting, storing and display of the
 48 information; and

49 (8) Prepare a voters' guide for the general public listing the names of each candidate
 50 seeking election to the Supreme Court of Appeals. Both certified and nonparticipating candidates
 51 shall be invited by the State Election Commission to submit a statement, not to exceed five
 52 hundred words in length, for inclusion in the guide. The guide shall identify the candidates that are
 53 certified candidates and the candidates that are nonparticipating candidates. Copies of the guide
 54 shall be posted on the website of the Secretary of State, as soon as may be practical.

55 (c) To fulfill their responsibilities under this article, the State Election Commission and the
 56 Secretary of State may subpoena witnesses, compel their attendance and testimony, administer
 57 oaths and affirmations, take evidence and require, by subpoena, the production of any books,
 58 papers, records or other items material to the performance of their duties or the exercise of their
 59 powers.

60 (d) The State Election Commission may also propose and adopt procedural rules to carry
 61 out the purposes and provisions of this article and to govern procedures of the State Election
 62 Commission as it relates to the requirements of this article.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.

§50-1-1. Magistrate court created.

1 (a) There is hereby created in each county of this state a magistrate court with such
 2 numbers of magistrates for each court as are hereafter provided. There shall be elected by the

3 voters of each county, at the general election to be held in 1976, and in every fourth year
 4 thereafter, such number of magistrates as is provided in §50-1-2 of this code. The filing fee for the
 5 office of magistrate shall be one percent of the annual salary. The term of magistrates shall be for
 6 four years and shall begin on January 1, of the year following the year of election.

7 (b) Effective with the primary election of ~~2016~~ 2024, all elections for magistrates will be on
 8 a ~~nonpartisan~~ partisan basis by division. ~~Beginning in 2016, there will no longer be primary~~
 9 ~~elections held for magistrates and all elections for magistrates are to be held in the nonpartisan~~
 10 ~~judicial election as set forth in article five, chapter three of this code. All indications of party~~
 11 ~~identification on election ballots for magistrate shall be omitted~~

§50-1-6. Vacancy in office of magistrate.

1 (a) Subject to the provisions of §3-10-1 of this code, when a vacancy occurs in the office of
 2 magistrate, the judge of the circuit court, or the chief judge thereof if there is more than one judge
 3 of the circuit court, shall fill the same by appointment of a person of the same political party as the
 4 officeholder vacating the office.

5 (b) At a ~~nonpartisan judicial~~ general election in which a magistrate is elected for an
 6 unexpired term, the circuit judge, or the chief judge thereof if there is more than one judge of the
 7 circuit court, shall cause a notice of such election to be published prior to such election as a Class
 8 II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the
 9 publication area for such publication shall be the county involved.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-1. Justices.

1 The Supreme Court of Appeals shall consist of five justices, elected and qualified
 2 according to the Constitution and the laws of this state, any three of whom shall constitute a
 3 quorum. Effective with the primary election of ~~2016~~ 2024, all elections for justices will be on a

4 ~~nonpartisan~~ partisan basis by division. ~~Beginning in 2016, there will no longer be primary elections~~
 5 ~~held for the office of justice and all elections for justice are to be held in the nonpartisan judicial~~
 6 ~~election as set forth in article five, chapter three of this code. All indications of party identification~~
 7 ~~on election ballots for that office shall be omitted~~

ARTICLE 2A. FAMILY COURTS.

§51-2A-5. Term of office of family court judge; initial appointment; elections.

1 (a) Beginning with the primary and general election to be conducted in the year 2016 2024,
 2 family court judges shall be elected. In family court circuits having two or more family court judges
 3 there shall be, for election purposes, numbered divisions corresponding to the number of family
 4 court judges in each area. Each family court judge shall be elected at large by the entire family
 5 court circuit. In each numbered division of a family court circuit, the candidates for nomination or
 6 election shall be voted upon and the votes cast for the candidates in each division shall be tallied
 7 separately from the votes cast for candidates in other numbered divisions within the family court
 8 circuit. The candidate or candidates receiving the highest number of the votes cast within a
 9 numbered division shall be nominated or elected, as the case may be. Effective with the primary
 10 election of 2016 2024, all elections for family court judges in the respective circuits will be on a
 11 ~~nonpartisan~~ partisan basis by division. ~~Beginning in 2016, there will no longer be primary elections held for~~
 12 ~~family court judges and all elections for family court judges are to be held in the nonpartisan~~
 13 ~~judicial election as set forth in article five, chapter three of this code. All indications of party~~
 14 ~~identification on election ballots for family court judge shall be omitted.~~

15 (b) The term of office for all family court judges elected in 2002 shall be for six years,
 16 commencing on January 1, 2003, and ending on December 31, 2008. Subsequent terms of office
 17 for family court judges elected thereafter shall be for eight years.

ARTICLE 11. THE WEST VIRGINIA APPELLATE REORGANIZATION ACT.

§51-11-6. Election of judges; initial appointment and election; vacancies; length and

conditions of judicial terms.

1 (a) ~~The~~ Beginning with any election held in 2024, and thereafter the three judges of the
2 Intermediate Court of Appeals shall be elected on a ~~nonpartisan~~ partisan basis to serve 10-year
3 terms, subject to the exceptions for initial appointments and elections contained in subsection (b)
4 and subsection (c) of this section.

5 (b) *Nomination and election to fill initial vacancies.* — The judges shall be nominated and
6 appointed according to the following procedure:

7 (1) (A) On or before January 1, 2022, the Judicial Vacancy Advisory Commission,
8 established pursuant to §3-10-3a of this code, shall publish notice of the judicial vacancies for the
9 Intermediate Court of Appeals and begin accepting applications from qualified individuals for the
10 position of judge of the Intermediate Court of Appeals. The commission is responsible for
11 reviewing and evaluating candidates for possible appointment to the Intermediate Court of
12 Appeals by the Governor. In reviewing candidates, the commission may accept applications from
13 any attorney who believes he or she to be qualified for the judgeships. The commission may
14 accept comments from and request information from any person or source.

15 (B) The commission shall recommend three qualified nominees for each position for
16 Intermediate Court of Appeals judge: *Provided*, That each person on the list ~~must~~ shall meet the
17 requirements of §51-11-3(d) of this code at the time such person will begin his or her term on the
18 court.

19 (2) The Governor shall review the list certified by the Judicial Vacancy Advisory
20 Commission and nominate three qualified candidates to serve as judge. The Governor shall make
21 his or her nominations without regard to political partisanship or affiliation. If the Governor does not
22 select a nominee for the position of judge from the names provided by the commission, he or she
23 shall notify the committee of that circumstance and the commission shall provide additional names
24 for consideration by the Governor.

25 (3) The initial appointment term for each of the judges, at the discretion of the Governor,

26 shall be as follows: one judge shall be selected to serve a two and one-half year term set to expire
27 on December 31, 2024, one judge shall be selected to serve a four and one-half year term set to
28 expire on December 31, 2026, and one judge shall be selected to serve a six and one-half year
29 term set to expire on December 31, 2028.

30 (4) Upon confirmation by the West Virginia Senate, an individual appointed to serve as a
31 judge of the Intermediate Court of Appeals pursuant to this subsection shall take an oath of office
32 and commence his or her duties on or before July 1, 2022, but no earlier than May 1, 2022.

33 (c) After the initial appointment, the judges of the Intermediate Court of Appeals shall be
34 elected on a ~~nonpartisan~~ partisan basis by division ~~during the primary election~~ in every year during
35 which a sitting judge's term will expire for a 10-year term of office, and the judge's term shall
36 commence on January 1 of the year following, as set forth in §3-5-1 *et seq.* of this code.

37 (d) If a vacancy occurs in the office of Intermediate Court judge, the Governor shall fill the
38 vacancy by appointment as provided in §3-10-3 and §3-10-3a of this code.

39 (e) The Legislature recognizes that the Chief Justice of the West Virginia Supreme Court of
40 Appeals has authority to temporarily assign judges to the Intermediate Court of Appeals pursuant
41 to section eight, article VIII of the Constitution of West Virginia, ~~in the event that~~ if a judge is
42 temporarily unable to serve on the court.

43 (f) The amendments to §51-11-6(b)(3) of this code enacted by the regular session of the
44 Legislature, 2022, shall be applied retrospectively to December 27, 2021.

NOTE: The purpose of this bill is to provide electoral reforms of the West Virginia judiciary generally. It requires the election of justices of the Supreme Court of Appeals, judges of the intermediate court of appeals; circuit court judges, family court judges and magistrates be on a partisan basis and that elections to certain offices be on a division basis when more than one justice of the Supreme Court of Appeals, judges of the intermediate court of appeals, circuit judge, family court judge or magistrate is to be elected. The bill provides that the nomination for elections for justice of the Supreme Court of Appeals, judges of the intermediate court of appeals, circuit judge, family court judge or magistrate are to be held on the same date as the primary election and that elections for justice of the Supreme Court

of Appeals, judges of the intermediate court of appeals, circuit judge, family court judge or magistrate are to be held on the same date as the general election. The bill provides procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate; providing occasions for special elections to be held to fill vacancies; the timing of commencement of the terms of offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate. Finally, the bill provides for the continuing applicability of the West Virginia Supreme Court of Appeals Public Campaign Financing Program.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.